

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

JEFFREY WILLIAM SMITH (1494875),



Petitioner,

v.

ACTION NO. 2:17cv617

HAROLD W. CLARKE, Director
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of Petitioner's constitutional rights pertaining to his convictions in 2014 in Portsmouth Circuit Court for armed burglary, robbery, use of a firearm in the commission of a robbery, attempted capital murder, use of a firearm in the commission of attempted capital murder, shooting a firearm from a vehicle so as to endanger others, wearing a mask in public, maliciously shooting at a law enforcement vehicle, and misdemeanor destruction of property. As a result of the convictions, Petitioner was sentenced to serve life in prison, plus 52 years' imprisonment.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation (ECF No. 17) was filed on August 17, 2018, and recommends dismissal of the petition with prejudice. The Report and Recommendation advised Petitioner of his right to object and the time limit for doing so.

The Court has received no objections, and the time for filing objections has now expired. Accordingly, the Court has reviewed the Report and Recommendation filed August 17, 2018, and finding no clear error, does accept the findings and recommendations set forth in it. Therefore, it is ORDERED that Respondent's Motion to Dismiss (ECF No. 12) is GRANTED, and that the petition (ECF No. 1) is DENIED and DISMISSED with prejudice.

Petitioner may appeal from the Judgment entered pursuant to this Final Order by filing a Notice of Appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 123 S. Ct. 1029, 1039 (2003).

The Clerk is directed to mail a copy of this Final Order to Petitioner and provide an electronic copy of the Final Order to counsel of record for Respondent.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

Sept 19th, 2018